



May 19, 2020

**VIA ELECTRONIC MAIL**

Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

**Re: Rule Filing SR-OCC-2020-005 Rule Certification**

Dear Secretary Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission (“CFTC”) Regulation 40.6, enclosed is a copy of the above-referenced rule filing submitted by The Options Clearing Corporation (“OCC”). OCC intends to implement this rule change no sooner than 10 business days following receipt of the rule filing by the CFTC or the date the proposed rule is approved by the Securities and Exchange Commission (“SEC”) or otherwise becomes effective under the Securities Exchange Act of 1934 (“Exchange Act”). This rule filing has been, or is concurrently being, submitted to the SEC under the Exchange Act.

In conformity with the requirements of Regulation 40.6(a)(7), OCC states the following:

Explanation and Analysis

The purpose of this rule filing is to amend Rule 401 to modify the implementation and enforcement timeline for requiring that an “Actionable Identifier” be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades.

**Background**

The Clearing Member Trade Assignment (“CMTA”) process at OCC allows a Clearing Member that executed a securities options trade (i.e., the Executing Clearing Member) to send the trade directly through OCC to another Clearing Member for clearance and settlement (i.e., the Carrying Clearing Member).<sup>1</sup> Under the CMTA process, an Executing Clearing Member and a

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<sup>1</sup> See OCC Rule 407. An “Executing Clearing Member” is defined in Article I, Section 1.E.(12) of the By-Laws as “a Clearing Member, on its own behalf or as the Clearing Member of an Introducing Broker that has been authorized by a Carrying Clearing Member to direct confirmed trades to be

Carrying Clearing Member can agree to have securities options trades for customers and non-customers effected by the Executing Clearing Member sent directly through OCC to the Carrying Clearing Member's omnibus accounts at OCC for clearance and settlement.<sup>2</sup> One potential risk that may arise in the CMTA process is that Clearing Members may receive customer trades that they do not recognize in a timely manner because the trades do not include information that allows them to quickly identify the correct customer account at the Carrying Clearing Member or that the trade should have been sent to another Carrying Clearing Member.

On May 6, 2019, OCC amended Rule 401 to require that an Actionable Identifier be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades.<sup>3</sup> Actionable Identifier is defined in Interpretation and Policy .06 to Rule 401 as either the name, series of numbers, or other identifying information assigned by a Purchasing Clearing Member or Writing Clearing Member to a customer or non-customer account (other than a Market-Maker account) at the Clearing Member that originated the options transaction. The introduction of the Actionable Identifier requirement was intended to minimize the risks Clearing Members face in handling trades they cannot timely identify in connection with the CMTA process.

The implementation plan for Actionable Identifier requirement, which is specified in Interpretation and Policy .06 to Rule 401, sets forth the effective dates for the rule change, providing that: (a) from the date on which the Actionable Identifier requirement is approved ("approval date") to the end of the twelfth month from such approval date, OCC will not treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member's policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; (b) from the thirteenth to the end of the eighteenth month from such approval date, an Actionable Identifier will be required but OCC will not treat as a violation of Rule 401 the failure of a Clearing

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transferred to a designated account of the Carrying Clearing Member pursuant to such Clearing Members' CMTA arrangement." A "Carrying Clearing Member" is defined in Article I, Section 1.C.(12) of the By-Laws as "a Clearing Member that has authorized an Executing Clearing Member to direct the transfer of a confirmed trade to a designated account of such Carrying Clearing Member pursuant to a CMTA arrangement."

<sup>2</sup> The term "customer" is defined in Article I, Section 1.C. (37) of the By-Laws with regard to listed options as "a person having a securities account at a broker or dealer other than a non-customer of such broker or dealer." The term "non-customer" is defined in Article I, Section 1.N.(1) of the By-Laws effectively as "a person that is not a customer of a broker or dealer as defined in Rules 8c-1 and 15c2-1 under the Securities Exchange Act of 1934," including "a Member Affiliate that has consented to having its securities account at a Clearing Member treated as a non-customer account." OCC Clearing Members hold omnibus accounts at OCC for customer positions (i.e., a "customers' account" as defined in Article I, Section 1.C.(37) of the By-Laws) and non-customer positions (i.e., a "firm account" as defined in Article I, Section 1.F.(6) of the By-Laws).

<sup>3</sup> See Securities Exchange Act Release No. 85779 (May 6, 2019), 84 FR 20689 (May 10, 2019) (SR-OCC-2019-003).

Member's policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; and (c) from the nineteenth month after such approval date and thereafter, OCC will treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member's policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction, subject to the manner in which OCC enforces violations of its rules in Rule 1201. This phased implementation plan was intended to provide time for Clearing Members to work together to determine appropriate Actionable Identifiers for the accounts subject to their CMTA arrangements and coordinate on processes to include Actionable Identifiers on trades submitted through the give-up process.

Recently, some Clearing Members have requested that OCC delay the deadline for requiring an Actionable Identifier on trades ("Actionable Identifier Deadline"), which is set for June 8, 2020. On this date, OCC would begin to enforce the Actionable Identifier requirement but would not treat as a violation of Rule 401 the failure of a Clearing Member's policies and procedures to provide that sufficient information is included in the Actionable Identifier field. Due to the COVID-19 pandemic, many Clearing Members are functioning under business continuity plans. OCC has been informed by many Clearing Members that because they are operating under business continuity plans, system enhancements are now limited to critical or essential system installations only. As a result, Clearing Members cannot install system functionality that will allow them to comply with the June 8, 2020 Actionable Identifier Deadline. Additionally, Clearing Members require input from floor brokers to implement Actionable Identifier information.<sup>4</sup> Clearing Members are limited by remote working conditions to coordinate directly with the floor brokers on the changes needed to populate the identifier on the trades. Given these factors, Clearing Members may require additional time to comply with the requirements of Rule 401(a)(1)(iii) and Interpretation and Policy .06.

### **Proposed Change**

OCC proposes to amend Interpretation and Policy .06 to Rule 401 to extend the deadline for requiring Actionable Identifiers on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades, by an additional three months from June 2020 to September 2020. OCC believes that extending the Actionable Identifier Deadline by three months will provide Clearing Members with the additional time they will need to make the necessary system changes to comply with the requirements of Rule 401. OCC believes the proposed rule change is appropriate given current conditions caused by the COVID-19 pandemic and does not believe that changes to the final implementation deadline of December 7, 2020, are necessary at this time.

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<sup>4</sup> Floor brokers receive and execute trades on behalf of customers. Clearing Members and floor brokers will therefore need to coordinate to have an agreed upon identifier for their various customers.

OCC reviewed the derivatives clearing organization (“DCO”) core principles (“Core Principles”) as set forth in the Act. During this review, OCC identified the following Core Principle as potentially being impacted:

**Public information.** OCC believes that implementing the proposed rule change will be consistent with the requirements in Core Principle L that a DCO make information concerning the rules and operating and default procedures governing the clearing and settlement systems of the DCO available to market participants and disclose publicly information relevant to participation in the settlement and clearing activities of the DCO.<sup>5</sup> CFTC Regulation 39.21(b) further requires that each DCO make information concerning the rules and the operating and default procedures governing the clearing and settlement systems of the derivatives clearing organization available to market participants.<sup>6</sup> The proposed rule change would extend the deadline for requiring Actionable Identifiers on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades, by an additional three months. Upon implementation, OCC will post the amended Rules to its public website, thereby providing market participants with relevant information regarding OCC’s operating procedures governing its clearing and settlement systems. In this regard, the proposed changes would further OCC’s compliance with Core Principle L.

#### Opposing Views

No opposing views were expressed related to the rule amendments.

#### Notice of Pending Rule Certification

OCC hereby certifies that notice of this rule filing has been given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC’s website concurrently with the filing of this submission.

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<sup>5</sup> 7 U.S.C. 7a-1(c)(2)(L)(ii) and (iii)(V).

<sup>6</sup> 17 CFR 39.21(b).

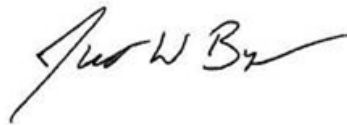
Christopher J. Kirkpatrick  
May 19, 2020  
Page 5

Certification

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Act and the CFTC's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin W. Byrne". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Justin W. Byrne  
Vice President, Regulatory Filings

Enclosure

Required fields are shown with yellow backgrounds and asterisks.

Filing by Options Clearing Corporation  
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input checked="" type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>
Section 806(e)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input checked="" type="checkbox"/>	Exhibit 3 Sent As Paper Document <input checked="" type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change to Extend the Deadline for Clearing Members to Provide an Actionable Identifier on Customer and Non-Customer Securities Options Trades Other than Market Maker Trades

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* Justin Last Name \* Byrne  
 Title \* Vice President, Regulatory Filings  
 E-mail \* jbyrne@theocc.com  
 Telephone \* (202) 971-7238 Fax (312) 322-6280

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date 05/19/2020 Vice President, Regulatory Filings  
 By Justin W. Byrne

Justin Byrne, jbyrne@theocc.com

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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Form 19b-4

Proposed Rule Change  
by

**THE OPTIONS CLEARING CORPORATION**

Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934



**Item 1. Text of the Proposed Rule Change**

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The Options Clearing Corporation (“OCC” or the “Corporation”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend Rule 401 to modify the implementation and enforcement timeline for requiring an “Actionable Identifier” to be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades. The proposed changes to OCC’s Rules are attached hereto as Exhibit 5. Material proposed to be added to OCC’s Rules as currently in effect is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.<sup>3</sup>

**Item 2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved for filing with the Commission by OCC’s Board of Directors (“Board”) at a meeting held on April 29, 2020.

Questions should be addressed to Justin Byrne, Vice President, Regulatory Filings, at (202) 971-7238.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> OCC’s By-Laws and Rules can be found on OCC’s public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

**Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

A. Purpose

**Background**

The Clearing Member Trade Assignment (“CMTA”) process at OCC allows a Clearing Member that executed a securities options trade (i.e., the Executing Clearing Member) to send the trade directly through OCC to another Clearing Member for clearance and settlement (i.e., the Carrying Clearing Member).<sup>4</sup> Under the CMTA process, an Executing Clearing Member and a Carrying Clearing Member can agree to have securities options trades for customers and non-customers effected by the Executing Clearing Member sent directly through OCC to the

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<sup>4</sup> See OCC Rule 407. An “Executing Clearing Member” is defined in Article I, Section 1.E.(12) of the By-Laws as “a Clearing Member, on its own behalf or as the Clearing Member of an Introducing Broker that has been authorized by a Carrying Clearing Member to direct confirmed trades to be transferred to a designated account of the Carrying Clearing Member pursuant to such Clearing Members’ CMTA arrangement.” A “Carrying Clearing Member” is defined in Article I, Section 1.C.(12) of the By-Laws as “a Clearing Member that has authorized an Executing Clearing Member to direct the transfer of a confirmed trade to a designated account of such Carrying Clearing Member pursuant to a CMTA arrangement.”

Carrying Clearing Member's omnibus accounts at OCC for clearance and settlement.<sup>5</sup> One potential risk that may arise in the CMTA process is that Clearing Members may receive customer trades that they do not recognize in a timely manner because the trades do not include information that allows them to quickly identify the correct customer account at the Carrying Clearing Member or that the trade should have been sent to another Carrying Clearing Member.

On May 6, 2019, the Commission approved a proposed rule change by OCC to amend Rule 401 to require that an Actionable Identifier be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades.<sup>6</sup> Actionable Identifier is defined in Interpretation and Policy .06 to Rule 401 as either the name, series of numbers, or other identifying information assigned by a Purchasing Clearing Member or Writing Clearing Member to a customer or non-customer account (other than a Market-Maker account) at the Clearing Member that originated the options transaction. The introduction of the Actionable Identifier requirement was intended to minimize the risks Clearing Members face in

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<sup>5</sup> The term "customer" is defined in Article I, Section 1.C. (37) of the By-Laws with regard to listed options as "a person having a securities account at a broker or dealer other than a non-customer of such broker or dealer." The term "non-customer" is defined in Article I, Section 1.N.(1) of the By-Laws effectively as "a person that is not a customer of a broker or dealer as defined in Rules 8c-1 and 15c2-1 under the Securities Exchange Act of 1934," including "a Member Affiliate that has consented to having its securities account at a Clearing Member treated as a non-customer account." OCC Clearing Members hold omnibus accounts at OCC for customer positions (i.e., a "customers' account" as defined in Article I, Section 1.C.(37) of the By-Laws) and non-customer positions (i.e., a "firm account" as defined in Article I, Section 1.F.(6) of the By-Laws).

<sup>6</sup> See Securities Exchange Act Release No. 85779 (May 6, 2019), 84 FR 20689 (May 10, 2019) (SR-OCC-2019-003).

handling trades they cannot timely identify in connection with the CMTA process.

The implementation plan for Actionable Identifier requirement, which is specified in Interpretation and Policy .06 to Rule 401, sets forth the effective dates for the rule change, providing that: (a) from the date on which the Actionable Identifier requirement is approved (“approval date”) to the end of the twelfth month from such approval date, OCC will not treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; (b) from the thirteenth to the end of the eighteenth month from such approval date, an Actionable Identifier will be required but OCC will not treat as a violation of Rule 401 the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; and (c) from the nineteenth month after such approval date and thereafter, OCC will treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction, subject to the manner in which OCC enforces violations of its rules in Rule 1201. This phased implementation plan was intended to provide time for Clearing Members to work together to determine appropriate Actionable Identifiers for the accounts subject to their CMTA arrangements and coordinate on processes to include Actionable Identifiers on trades submitted

through the give-up process.

Recently, some Clearing Members have requested that OCC delay the deadline for requiring an Actionable Identifier on trades (“Actionable Identifier Deadline”), which is set for June 8, 2020. On this date, OCC would begin to enforce the Actionable Identifier requirement but would not treat as a violation of Rule 401 the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field. Due to the COVID-19 pandemic, many Clearing Members are functioning under business continuity plans. OCC has been informed by many Clearing Members that because they are operating under business continuity plans, system enhancements are now limited to critical or essential system installations only. As a result, Clearing Members cannot install system functionality that will allow them to comply with the June 8, 2020 Actionable Identifier Deadline. Additionally, Clearing Members require input from floor brokers to implement Actionable Identifier information.<sup>7</sup> Clearing Members are limited by remote working conditions to coordinate directly with the floor brokers on the changes needed to populate the identifier on the trades. Given these factors, Clearing Members may require additional time to comply with the requirements of Rule 401(a)(1)(iii) and Interpretation and Policy .06.

### **Proposed Change**

OCC proposes to amend Interpretation and Policy .06 to Rule 401 to extend the deadline

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<sup>7</sup> Floor brokers receive and execute trades on behalf of customers. Clearing Members and floor brokers will therefore need to coordinate to have an agreed upon identifier for their various customers.

for requiring Actionable Identifiers on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades, by an additional three months from June 2020 to September 2020. OCC believes that extending the Actionable Identifier Deadline by three months will provide Clearing Members with the additional time they will need to make the necessary system changes to comply with the requirements of Rule 401. OCC believes the proposed rule change is appropriate given current conditions caused by the COVID-19 pandemic and does not believe that changes to the final implementation deadline of December 7, 2020, are necessary at this time.

B. Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>8</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and to foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions. The Actionable Identifier requirements of Rule 401 are designed to enable Clearing Members to more promptly and accurately clear and settle securities options trades that are subject to CMTA and give-up arrangements. The proposed rule change would provide additional time for OCC's Clearing Members to make the necessary system changes to effectively implement Actional Identifiers given the recent complications caused by the COVID-19 pandemic. In this way, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions

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<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

and foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions in accordance with the requirements of Section 17A(b)(3)(F).<sup>9</sup>

In addition, the proposed rule change is not inconsistent with the existing By-Laws and Rules of OCC, including any rules proposed to be amended.

**Item 4. Self-Regulatory Organization’s Statement on Burden on Competition**

Section 17A(b)(3)(I) of the Act<sup>10</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change would provide Clearing Members with additional time to comply with the Actionable Identifier requirements previously approved by the Commission.<sup>11</sup> The proposed rule change would not affect the competitive dynamics between Clearing Members in that it would apply to all Clearing Members equally. The proposed rule change also would not inhibit access to OCC’s services or disadvantage or favor any particular user in relationship to another. In this regard, as described above, the proposed rule change is designed to further facilitate the prompt and accurate clearance and settlement of securities transaction.

**Item 5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others**

Written comments were not and are not intended to be solicited with respect to the

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<sup>9</sup> Id.

<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>11</sup> See supra note 6.

proposed rule change and none have been received.

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

Pursuant to Section 19(b)(3)(A)<sup>12</sup> of the Act, and Rule 19b-4(f)(1) thereunder,<sup>13</sup> the proposed rule change is filed for immediate effectiveness as it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. The proposed rule change would modify the implementation and enforcement dates of rule changes previously approved by the Commission in OCC filing SR-OCC-2019-003.<sup>14</sup> Accordingly, the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the administration and enforcement of an existing rule of OCC.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>15</sup>

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(1).

<sup>14</sup> See supra note 6.

<sup>15</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.



**Item 8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**Item 11. Exhibits**

Exhibit 1A. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5. OCC Rules.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has caused this filing to be signed on its behalf by the undersigned hereunto duly authorized.

**THE OPTIONS CLEARING CORPORATION**

**By:** \_\_\_\_\_  
**Justin W. Byrne**  
**Vice President, Regulatory Filings**

## EXHIBIT 1A

## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[\_\_\_\_\_]; File No. SR-OCC-2020-005)

May \_\_, 2020

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Deadline for Clearing Members to Provide an Actionable Identifier on Customer and Non-Customer Securities Options Trades Other than Market Maker Trades

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 19, 2020, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(1)<sup>4</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to amend Rule 401 to modify the implementation and enforcement timeline for requiring an “Actionable Identifier” to be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades. The proposed changes to OCC’s Rules are contained in Exhibit 5 of the filing. Material proposed to be added to OCC’s Rules as currently in effect is marked by

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.<sup>5</sup>

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

**Background**

The Clearing Member Trade Assignment (“CMTA”) process at OCC allows a Clearing Member that executed a securities options trade (i.e., the Executing Clearing Member) to send the trade directly through OCC to another Clearing Member for clearance and settlement (i.e., the Carrying Clearing Member).<sup>6</sup> Under the CMTA

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<sup>5</sup> OCC's By-Laws and Rules can be found on OCC's public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

<sup>6</sup> See OCC Rule 407. An “Executing Clearing Member” is defined in Article I, Section 1.E.(12) of the By-Laws as “a Clearing Member, on its own behalf or as the Clearing Member of an Introducing Broker that has been authorized by a Carrying Clearing Member to direct confirmed trades to be transferred to a designated account of the Carrying Clearing Member pursuant to such Clearing Members' CMTA arrangement.” A “Carrying Clearing Member” is defined in Article I, Section 1.C.(12) of the By-Laws as “a Clearing Member that has authorized an Executing Clearing Member to direct the transfer of a confirmed

process, an Executing Clearing Member and a Carrying Clearing Member can agree to have securities options trades for customers and non-customers effected by the Executing Clearing Member sent directly through OCC to the Carrying Clearing Member's omnibus accounts at OCC for clearance and settlement.<sup>7</sup> One potential risk that may arise in the CMTA process is that Clearing Members may receive customer trades that they do not recognize in a timely manner because the trades do not include information that allows them to quickly identify the correct customer account at the Carrying Clearing Member or that the trade should have been sent to another Carrying Clearing Member.

On May 6, 2019, the Commission approved a proposed rule change by OCC to amend Rule 401 to require that an Actionable Identifier be included on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades.<sup>8</sup> Actionable Identifier is defined in Interpretation and Policy .06 to Rule 401 as either the name, series of numbers, or other identifying information assigned by a Purchasing Clearing Member or Writing Clearing Member to a customer or non-customer account (other than a Market-Maker account) at the Clearing Member that

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trade to a designated account of such Carrying Clearing Member pursuant to a CMTA arrangement.”

<sup>7</sup> The term “customer” is defined in Article I, Section 1.C. (37) of the By-Laws with regard to listed options as “a person having a securities account at a broker or dealer other than a non-customer of such broker or dealer.” The term “non-customer” is defined in Article I, Section 1.N.(1) of the By-Laws effectively as “a person that is not a customer of a broker or dealer as defined in Rules 8c-1 and 15c2-1 under the Securities Exchange Act of 1934,” including “a Member Affiliate that has consented to having its securities account at a Clearing Member treated as a non-customer account.” OCC Clearing Members hold omnibus accounts at OCC for customer positions (i.e., a “customers’ account” as defined in Article I, Section 1.C.(37) of the By-Laws) and non-customer positions (i.e., a “firm account” as defined in Article I, Section 1.F.(6) of the By-Laws).

<sup>8</sup> See Securities Exchange Act Release No. 85779 (May 6, 2019), 84 FR 20689 (May 10, 2019) (SR-OCC-2019-003).

originated the options transaction. The introduction of the Actionable Identifier requirement was intended to minimize the risks Clearing Members face in handling trades they cannot timely identify in connection with the CMTA process.

The implementation plan for Actionable Identifier requirement, which is specified in Interpretation and Policy .06 to Rule 401, sets forth the effective dates for the rule change, providing that: (a) from the date on which the Actionable Identifier requirement is approved (“approval date”) to the end of the twelfth month from such approval date, OCC will not treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; (b) from the thirteenth to the end of the eighteenth month from such approval date, an Actionable Identifier will be required but OCC will not treat as a violation of Rule 401 the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction; and (c) from the nineteenth month after such approval date and thereafter, OCC will treat as a violation of Rule 401 the failure to include an Actionable Identifier or the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction, subject to the manner in which OCC enforces violations of its rules in Rule 1201. This phased implementation plan was intended to provide time for Clearing Members to work together to determine appropriate Actionable Identifiers for

the accounts subject to their CMTA arrangements and coordinate on processes to include Actionable Identifiers on trades submitted through the give-up process.

Recently, some Clearing Members have requested that OCC delay the deadline for requiring an Actionable Identifier on trades (“Actionable Identifier Deadline”), which is set for June 8, 2020. On this date, OCC would begin to enforce the Actionable Identifier requirement but would not treat as a violation of Rule 401 the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field. Due to the COVID-19 pandemic, many Clearing Members are functioning under business continuity plans. OCC has been informed by many Clearing Members that because they are operating under business continuity plans, system enhancements are now limited to critical or essential system installations only. As a result, Clearing Members cannot install system functionality that will allow them to comply with the June 8, 2020 Actionable Identifier Deadline. Additionally, Clearing Members require input from floor brokers to implement Actionable Identifier information.<sup>9</sup> Clearing Members are limited by remote working conditions to coordinate directly with the floor brokers on the changes needed to populate the identifier on the trades. Given these factors, Clearing Members may require additional time to comply with the requirements of Rule 401(a)(1)(iii) and Interpretation and Policy .06.

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<sup>9</sup> Floor brokers receive and execute trades on behalf of customers. Clearing Members and floor brokers will therefore need to coordinate to have an agreed upon identifier for their various customers.

**Proposed Change**

OCC proposes to amend Interpretation and Policy .06 to Rule 401 to extend the deadline for requiring Actionable Identifiers on all customer and non-customer securities options trades submitted to OCC for processing, other than Market-Maker trades, by an additional three months from June 2020 to September 2020. OCC believes that extending the Actionable Identifier Deadline by three months will provide Clearing Members with the additional time they will need to make the necessary system changes to comply with the requirements of Rule 401. OCC believes the proposed rule change is appropriate given current conditions caused by the COVID-19 pandemic and does not believe that changes to the final implementation deadline of December 7, 2020, are necessary at this time.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>10</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and to foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions. The Actionable Identifier requirements of Rule 401 are designed to enable Clearing Members to more promptly and accurately clear and settle securities options trades that are subject to CMTA and give-up arrangements. The proposed rule change would provide additional time for OCC's Clearing Members to make the necessary system changes to effectively implement Actional Identifiers given the recent complications caused by the COVID-19 pandemic. In this way, the proposed rule change is designed to promote the prompt and

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<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).



accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in clearance and settlement of securities transactions in accordance with the requirements of Section 17A(b)(3)(F).<sup>11</sup>

In addition, the proposed rule change is not inconsistent with the existing By-Laws and Rules of OCC, including any rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act<sup>12</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change would provide Clearing Members with additional time to comply with the Actionable Identifier requirements previously approved by the Commission.<sup>13</sup> The proposed rule change would not affect the competitive dynamics between Clearing Members in that it would apply to all Clearing Members equally. The proposed rule change also would not inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another. In this regard, as described above, the proposed rule change is designed to further facilitate the prompt and accurate clearance and settlement of securities transaction.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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<sup>11</sup> Id.

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>13</sup> See supra note 8.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)<sup>14</sup> of the Act, and Rule 19b-4(f)(1) thereunder,<sup>15</sup> the proposed rule change is filed for immediate effectiveness as it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. The proposed rule change would modify the implementation and enforcement dates of rule changes previously approved by the Commission in OCC filing SR-OCC-2019-003.<sup>16</sup> Accordingly, the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the administration and enforcement of an existing rule of OCC.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>17</sup>

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(1).

<sup>16</sup> See supra note 8.

<sup>17</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Rule 40.6.

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2020-005 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2020-005. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/about/publications/bylaws.jsp>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information

from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2020-005 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

Secretary

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<sup>18</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**



## OCC Rules

Underlined text indicates new text

~~Strikethrough~~ text indicates deleted text

## ***Chapter IV - Trade Reporting, Novation, and Confirmation***

### **RULE 401 - Reporting of Confirmed Trades and Novation**

(a) - (g) [No change]

#### ***. . . Interpretations and Policies:***

.01 – .05 [No change]

.06 Actionable Identifier.

Each Actionable Identifier that is required to be submitted pursuant to paragraph (a)(1)(iii) of this rule by the Purchasing Clearing Member shall consist of either the name, series of numbers, or other identifying information assigned by the Purchasing Clearing Member to the customer account or non-customer account (other than a Market-Maker account) held at the Purchasing Clearing Member that originated the purchase transaction. Each Actionable Identifier that is required to be submitted pursuant to paragraph (a)(1)(iii) of this rule by the Writing Clearing Member shall consist of either the name, series of numbers, or other identifying information assigned by the Writing Clearing Member to the customer account or non-customer account (other than a Market-Maker account) held at the Writing Clearing Member that originated the sale transaction. In the event an Actionable Identifier is transmitted to another Clearing Member to clear a purchase or sale transaction, the Purchasing Clearing Member in the case of a purchase transaction, and Writing Clearing Member in the case of a sale transaction, shall establish and maintain policies and procedures reasonably designed to include sufficient information in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction. Each Clearing Member that has adopted such policies and procedures shall annually certify to the Corporation, in a form and manner specified by the Corporation, that such policies and procedures are reasonably designed to provide that sufficient information is included in the Actionable Identifier fields to allow the Clearing Member(s) receiving such Actionable Identifiers to promptly clear the transactions.

From the date on which the Actionable Identifier requirement in paragraph (a)(1)(iii) of this rule is approved (“approval date”) to the end of the ~~twelfth~~<sup>thirteenth</sup> month from such approval date, the Corporation will not treat as a violation of this rule the failure to include an Actionable Identifier as prescribed in paragraph (a)(1)(iii) of this rule or the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction. From the ~~thirteenth~~<sup>fourteenth</sup> to the end of the eighteenth month from such approval date, an Actionable Identifier will be required as prescribed in paragraph (a)(1)(iii) of this rule but the Corporation will not treat as a violation of this rule the failure of a Clearing Member’s policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to

promptly clear the transaction. From the nineteenth month after such approval date and thereafter, the Corporation will treat as a violation of this rule the failure to include an Actionable Identifier as prescribed in paragraph (a)(1)(iii) of this rule or the failure of a Clearing Member's policies and procedures to provide that sufficient information is included in the Actionable Identifier field to allow the Clearing Member receiving such Actionable Identifier to promptly clear the transaction, subject to the manner in which the Corporation enforces violations of its rules under Rule 1201. -At the end of the nineteenth month after such approval date, the Corporation shall delete this second paragraph in Interpretation and Policy .06 of this rule in its entirety.